

REMARKS

In the present communication, no claims have been amended, cancelled, or added. As such, Claims 1-8, 13-15, and 51-52 are currently pending and under examination. The Examiner's rejections are as follows:

- I) The Examiner objected to the priority of the present application;
- II) Claims 1-3, 6, 7, 13-15, 51, and 52 were rejected under 35 U.S.C. 103(a) as allegedly unpatentable over Gehrman et al. (WO 03/044225), Cho et al. (Appl. Env. Microbiol., vol. 68, pp. 1425-1430), and Wagner et al. (PNAS USA, vol. 95, pp. 14447-14452);
- III) Claims 4 and 5 were rejected under 35 U.S.C. 103(a) as allegedly unpatentable over Gehrman et al., Cho et al., Wagner et al. and Fulton et al.; and
- IV) Claim 8 was rejected under 35 U.S.C. 103(a) as allegedly unpatentable over Gehrman et al., Cho et al., Wagner et al., and Allen et al. (U.S. Pat. 6,017,710).

I. Priority Application

The Examiner indicated that the present application is not entitled to the priority date of the provisional application (60/464,981) as it allegedly does not provide support for random nucleic acid molecules. Applicants respectfully disagree and note that random nucleic acid sequences are described throughout the provisional application at, for example, page 1 lines 3-4; page 2, lines 15-25; page 3, lines 6-9; page 4, lines 5-7; and page 10, line 27 - page 11, line 26. As such, it is clear the present application is entitled to its priority date based on the provisional application.

III. Three Obviousness Rejections

As listed above, the Examiner has issued three different obviousness rejections. All three of these rejections employ the Gehrman et al. reference as the primary reference. Filed herewith is a Declaration by Jeffrey Platt swearing behind the cited material in the Gehrman et al. reference. As the Gehrman et al. reference is not prior art, Applicants respectfully submit that all three obviousness rejections fail and therefore should be withdrawn.

CONCLUSION

Should the Examiner believe that a telephone interview would aid in the prosecution of this application, Applicants encourage the Examiner to call the undersigned at 608-662-1277.

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